



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/357,375	07/20/99	ARTHUR	M 0660-0155-0-

022850 HM12/0607
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EXAMINER

HUTSON, R

ART UNIT

PAPER NUMBER

1652

DATE MAILED:

06/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/357,375

Applicant(s)

Arthur et al.

Examiner

Richard Hutson

Group Art Unit

1652



☒ Responsive to communication(s) filed on Oct 29, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1, 7, and 29-33 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1, 7, and 29-33 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1652

DETAILED ACTION

Election/Restriction

1. Claims 1, 7, 29-33 are generic to a plurality of disclosed patentably distinct species comprising an isolated protein having a sequence selected from the group consisting of: SEQ ID NO: 2 (VanH), SEQ ID NO: 6 (VanX), SEQ ID NO: 8 (VanC), SEQ ID NO: 12 (VanR), SEQ ID NO: 14 (VanS), SEQ ID NO: 19 (transposase), SEQ ID NO: 21 (resolvase), SEQ ID NO: 23 (VanY) and SEQ ID NO: 25 (VanZ). Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Specification

Acknowledgement is made of applicants preliminary amendment filed as paper No: 4 on 7/29/1999 and the amendment many of the SEQ ID NOs. It is brought to the attention of the applicant that many of these "amended SEQ ID NOs" include those to which currently pending claims are drawn, however, no corresponding amendment to the claims has been made. See especially claims 1 and 7. This is pointed out to applicant to avoid potential confusion in the examination of these claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Hutson whose telephone number is (703) 308-0066. The examiner can normally be reached on M-F from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapy Achutamurthy (Murthy), can be reached on (703) 308-3804. The fax number for Official Papers to Technology Center 1600 is (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.


REBECCA E. PROITY
PRIMARY EXAMINER
GROUP 1600
1600

Richard Hutson
6/5/2000